



July 24, 1995 MEMO

To : Roger Kennedy, Director,
National Park Service

From: Jim Ingram, President,
Ruth Shepherd, Coordinator, Action Committee
Mineral King District Association

Re : ● Eviction of summer cabin Permittees in
Mineral King Area of Sequoia Park and
● Request for response
● Request for current "Statement for Management,"
as revised

References: 1) Letter to Congressman Dooley, (received
6/29/95) from Stanley Albright,
A3615 (WR-DOE) xL30

2) "Another Century in Mineral King,"
informational pamphlet published in '93
by the Mineral King District Association,
and updated Spring of '95

Permittees in the Mineral King Area are appreciative of the cooperative efforts by Sequoia Park personnel and your Pacific West Area Field Director to maintain open channels of communication with members of our District Association, and the professional conduct which characterizes year-round interactions between Superintendent Tollefson, his staff, representatives of our Association, and individual permittees. We thank you all, including Secretary Babbitt, sincerely.

The Action Committee of Mineral King District Association represents sixty seven cabin owners and six hundred friends and families of those owners. President of the The Mineral King District Association, '94-95, is Jim Ingram, 1744 E. Caldwell, Visalia, CA 93291. Coordinator of the Action Committee is Ruth Shepherd, 7955 O'Connor Court, SE, Salem, OR 97301 Telephone (503) 363-9886

Not receiving response from you or Kitty Roberts to our mid-June FAX and phone requests for appointment time in D.C. to discuss our specific priority issues, we use this memo to convey and reiterate those issues, with growing hope that the District Association will be hearing from you soon.

We have copies of the letter which was sent to you from Congressmen Radanovich and Dooley, and your response letter, over Director Albright's signature, to those gentlemen (6/29/95). We work closely with Mr. Pensabene, of Bogle and Gates, Wash. D.C., who represents one of our permittee families and whose opinions were included in the letter to you from the Congressmen, (and Senator Feinstein.)

In this memo we respond to those letters and reiterate some issues expressed in the light blue pamphlet "Another Century in Mineral King." We will forward, or hand-carry, copies of this memo and the pamphlet to Mike Tollefson, Sequoia Park Superintendent, and Mr. Albright, Field Director, Pacific West Area, for scheduled appointments with each of them this week.

We welcome your responses:

Public policies currently administered in the Mineral King Area
 ● have the effect of discriminating selectively and unfairly against permittees, as compared to inholders and other recreational users, and
 ● do not reflect the present intent of the public, the present Congress, or the Congress of 1978, which brought Mineral King Area into the Park, specifically to prevent "high intensity mechanical recreational ski developments." (Robert Herbst, Assistant Secretary for Fish and Wildlife and Parks, 1978)

Because certain permittee families have been, and next year will be ejected from their summer homes, the Association requests an examination of those policies by the NPS and the Congress at this time.

● Inholders / Permittees : What's fair? What isn't?

We find that the NPS in the Mineral King Area is simultan-

eously administering contradictory Park policies, and there is **urgent need to review those policies before any further evictions of permittees take place or other plans are developed for the future.**

Even as we hope to participate in such a review, we are sympathetic to your policy dilemma and the continuing realities which are presented to all of you in NPS management, described well in 1981 to a Congressional Committee by Russell Dickenson, then Director of the Service:

" When the Congress established the National Park Service in 1916 it gave us what could be described as a contradictory set of rules---protection and preservation of the national parks on the one hand, and provision for appropriate use and public enjoyment on the other. That certainly is a dichotomy which has not been fully and successfully resolved up to this day..."

We presume that the public (still) wants, not only to visit and use Parks, but also be assured that your agency will protect scenery, wildlife, natural and historic objects, "for enjoyment now and by future generations." Applying those standards, we contend that visitors to Mineral King and Silver City are **pleased** to see, are comfortable with, and **feel welcomed** by the ninety five historic cabins and rustic resort which are, and have been, for most of the century, nestled unobtrusively in forests. (See first paragraph and other entries, Another Century in Mineral King.)

Unless otherwise informed, visitors cannot see a difference between cabins in the Mineral King Area which are on government land, and cabins which are privately held. They are unable to identify different patterns of usage or occupancy because **all of us use cabins with the same regard for NPS regulations and care of the environment.**

Despite your reference in Director Albright's response to the Congressmen, about the difference between inholders and permittees, in which you cite PL 95-625, Section 45 (c) language, "in exchange for Government acquisition," you and we know, and the Congress knows, that acquisition has not taken place.

We see at least four indicators that Park policy and Congressional action, combined, have the effect of selectively protecting in-holders while discriminating against permittees in The Mineral King Area:

1) Long-time Congressional staff persons, who recall PS appropriations activity since 1978, indicate that the Park Service has never requested public funds from the Congress to acquire the privately held cabins. 2) For a good number of years since 1978, public policy in regard to acquisition of "inholder" properties on public lands has evolved and changed because of action (or inaction) of the NPS or the Congress, making it most unlikely for a very long while, according observers "in the know," that the government will seek to purchase the inholdings of Silver City. **None** of the private in-holdings in the Mineral King Area have evolved into 25 year or lifetime leases. 3) Persons who have recently inquired about and subsequently bought lots in the Silver City part of Mineral King Area have been told by Park Service employees that cabins which are built on those new, scenic lots, will remain in private hands indefinitely. 4) Recognizing those realities, the Park Service has further protected in-holders in the present Park Service Management Plans. **It has become the de facto policy of the NPS in the Mineral King Area to accept and sustain the private inholders, all friends and relatives of permittees.**

We believe that inholders and permittees in the Mineral King Area occupy areas of the Park land which are of equal importance; use those areas identically; have demonstrable records of living compatibly with all other recreation users who enjoy the valley; comply with equal conformity to agency conditions and standards of use; and are separately identifiable only on official documents which declare ownership.

Present policies, which selectively retain twenty-eight "private" cabins and their use by families, but eject all others, even though we "others" are, demonstrably, equally compatible to Park goals, are untenable public policies and need to be reviewed. We ask for investigation, review and discussion among all parties, the Congress and Administration, and request assurance that permittees will be given the same opportunities and protections as inholders.

Basically, permittees believe that we are being treated unfairly by our government, especially for the favoritism afforded private owners. Our record as good stewards and compatible users of public land and good friends of the Park is identical to record earned by our friends who are in-holders. Permittees are no more, or less, a threat to "pleasurable to public use" than in-holders. Nonetheless,

we are being torn away from our friends, relatives and neighbors who are fortunate to own the land below their cabins.

As you know, the Mineral King District Association seeks assistance from the NPS and/or the Congress at this time to stop evictions immediately and bring back the permittee families which have been unfairly evicted. We are persuaded that the current Congress and public opinion are sympathetic to the apparent policy contradictions and unfairness of eviction, and know that there is public concern about unnecessary expenditures and staff time for such activity and especially when NPS workload has increased.

● Park Service policies vis-a-vis Intent of Public and the Congress: Then ('78) and Now.

In the second page of Mr. Albright's June letter to the Congressmen, the NPS

"agrees with Mr. Pensabene that other authorities exist which could be used to issue new special use permits for recreational cabins in Mineral King. To use these authorities to write such permits, however, would require that we ignore the intent of Congress."

The letter goes on to quote some of the language of the '78 legislation, none of which, in our view, gives the PS specific direction or authority to remove permittees.

We respectfully suggest that your agency might be well served to carefully review "Congressional intent," since we've had the luxury of time, with help, to do that. (As a result, are somewhat hopeful that your agreement with Mr. Pensabene will continue.)

In regard to "intent," we conclude that the Park Service, (not the Sierra Club, public testimony, or members of the House or Senate,) initiated the option to evict permittees, and it was done at about the time of final mark-up of the '78 omnibus legislation. (See "Another Century in Mineral King, pp 4,10, 11") In our review of

records and "Congressional intent," we find that key Congressmen who wanted to bring our area into the Park also sought protection so that permittees could continue use of their cabins. But, as the bigger issue -- to exclude large-scale ski developments through Park expansion -- came to "front and center" of that massive bill, so, too, came enormously high political temperatures, and permittees, at time of final vote, were temporarily forgotten by members of Congress.

Influential Congressmen who had key roles in passage of PL 95-625, intended, as well, that the Area be developed for more, not less use. See Senator Cranston's original version of SB 88. See, also, Congressman Kreb's testimony, early '78, suggesting that "the Secretary may renew or extend the current sixty-seven active leases of national forest properties in Mineral King;" and see language of final bill, "the Congress recognizes that the Mineral King valley has outstanding potential for certain year-round recreational opportunities...". In addition, see testimony, prior to passage, by Robert Herbst, Asst. Secretary for Fish and Wildlife and Parks, "...we would consider various recreational alternatives, including downhill skiing..."

We believe that evidence supports our position: the Congress which authorized the inclusion of Mineral King into Sequoia Park in 1978 expressed intent to protect permittees and was not concerned about our continued use.

We further believe that the current Congress, and the Congress immediately before it, are both good indicators of current public opinion and the majority of elected officials. **We believe there is maximum understanding of our goals and inclination to support any lawful action, initiated by the NPS, or the Congress, which would continue use of cabins by permittees without eviction.** (We recognize, for example, that Senator Feinstein and the majority of members of the last Congress, in supporting our newest National Park in the desert, included language which protects permittees.)

Additional concerns also await your response:

● Although very few of the present Park officials were part of the Service when Mineral King became a part of Sequoia and Kings Canyon, and permittees are aware that responsibility for administration was transferred at that time from one Secretary to another, most permittees believe that they were not fairly or uniformly informed by their government of the opportunity to transfer permits to younger family members. ● Similarly, we find that the importance of the Management Plan, and permittee participation in its formulation, was also not well enough defined or announced by the NPS to permittees at the time that public comment was invited, and we do not believe that the Plan supports your comments in your recent response to Congressmen Radanovich and Dooley

● Government agencies failed to inform permittees adequately, before and after passage of the '78 Law.

Our survey this year of all permittees and their families documented long-standing reports that, even as most of us in 1978 were actively supporting Park status for Mineral King, we were unaware, until **after** passage of the legislation, that the Secretary was given options of terminating, or renewing, permits. Recognizing in "hindsight" that the NPS probably intended to exercise the option of evicting us, we are unforgiving that the public agency did not assure itself that each and every permittee had been thoroughly informed, and did not disclose that information until after the fact.

A **small** group of permittees recall receipt of a notice dated one week **after** the bill became law, which notice was co-signed by Joe Brown, Forest Supervisor of Sequoia National Forest, and David Thompson, Superintendent, Sequoia and Kings Canyon National Parks. Those few who received that notice were told that permittees were given six weeks, including Christmas and other holidays, to "write the (new) Superintendent with a request for renewal."

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● The Management Plan of 1980

At the top of page 3 of your letter to the Congressmen, you emphasize an immediate need for camp space and make a significant statement :

"We can agree only (with Mr. Pensabene) if 'wholly compatible' means denying existing demand for camp space in order to preserve these public lands for private recreational use."

(Mr. Pensabene argues that permits are "wholly compatible with the administration of the area.")

Some clarification would be very helpful.

Do you mean that the Park Service believes that the spaces which support cabins at this time are the **only** spaces in Mineral King Area in which the NPS can accomodate more campers? Or, perhaps, you mean that NPS would find permittees "wholly compatible" if there were no demand for camp space?

If it's your present thinking to retain inholders, but trade permittees for campers and hikers, we and others would need to know, before that happens, your definition of "compatible use."

Indeed, we look to NPS at this time for such definition.

Since it's likely to be another sixty years, under present guidelines, before the youngest of us sixty seven permittees dies, **is the Park Service willing to soar in circles above us and wait that long before demands for more camp space are met? Or will you propose a new plan which incrementally transforms each cabin site, on death of permittee, into a campsite, thus co-mingling cabins and campers? Or are you proposing entirely new directions?**

This is to request a copy of your most recent Statement of Management, and any other materials relating to this issue which might help us understand your position.

In further consideration of the demand for more camp space, we wonder if some creative thinking might identify other, compatible ways to accomodate inholders, permittees and more campers and other recreational users? Over the years, many more campsites were in use in the Area, and hundreds of acres in the designated Mineral King Area invite development of sanitary, spacious, scenic campsites which could be located unobtrusively.

Many of us believe that the Management Plan and intent of Congress can, and should be interpreted to accomodate many more year-round recreation activities than camping, and more accomodation, even overnight, for hikers who "park and hike" from the valley and for day visitors. We envision more NPS collaboration with the Mineral King Preservation Society, for programs and/or information stations, perhaps at existing cabins, where visitors could learn about and enjoy the rich history of the Area.

We disagree with NPS' narrow interpretation of the Management Plan which seems to assume that the Area ought to, or is supposed to be managed as a wilderness. We're mindful of Dave Brower's introduction to Gentle Wilderness, The Sierra Nevada, in which he said " The Mineral King Valley is not, strictly speaking, wilderness, with its few remaining cabins, but it's the next best thing: a near-pristine, magnificent subalpine valley...it is one of the prime taking-off points for self-powered recreation."

Having said that, and having accepted a welcome and lemonade on the porch of a trailside cabin in Mineral King years ago, Bower, the icon of wilderness and preservation, would not likely put much energy, or priority, then or now, into the removal of the "few remaining cabins."

In expressing our concern about the way that the NPS seems to interpret the Managment Plan, we take note, also, of the fact that the NPS did not attempt to include Mineral King in a fairly recent designation of a new Wilderness Area adjacent to us, and that two recent expressions from Sierra Club officials explain that there was "little or no concern about the cabins," then or now. (See pamphlet, Another Century in Mineral King, pp. 11 and 12)

Congress, in fact, gave strong direction for development of the Management Plan which does, indeed, seem to be "lost" in current Administration. In Section 314 of the omnibus bill, it says that

the "plan for Mineral King should address...**a program to make the area available to the greatest number of people without adversely affecting the environment...**"

In this request for many responses, we appeal to the NPS for realism about the road to Mineral King and the number of visitors to be reasonably expected in the future. (Page 7 of pamphlet.)

Several Congressmen and their staff people have been in Mineral King, and are very aware that the road to Mineral King excludes **most** people who might fit a "profile of National Park users." (See pamphlet) They know, as does the NPS and those who use the Area, that a tiny fraction of "usual Park users" are interested in reaching and using Mineral King even for a day's visit, or for camping or taking -off for vigorous hiking. The Mineral King Area is unique and unlike any other area in the Park system which can be reached by car. It is a remote, hard-to-access "pocket of the Park." Most users would find it exceptionally difficult to reach, and for that reason the Area is not likely, **ever**, to attract high volume use.

Those who would plan and control use for the future surely recognize that the road will remain a unique and major deterrent to high volume use and that estimated costs to improve the road prohibit it's development. **In itself**, it is a basic protection and barrier which controls overuse and ought to be utilized as the primary planning tool whenever the future of Mineral King is considered.

Park officials know that a only a **small** percentage of "park users" will choose to come to Mineral King to camp or hike, or even to "look around " for a few hours. We believe you err and overdraw reality, therefore, on page 3 of your letter to the Congressman, in your claim that "it would be contrary to the interest of the **overwhelming majority of park users** to issue new permits granting private use of park lands that are badly needed for public recreation."

The cabins and space used by permittees and inholders in the Mineral King Area are not in demand by the "overwhelming majority" and are of little concern to people who do venture to Mineral King to camp or undertake "self-powered recreation."

We invite the NPS to consider and respond to these concerns and develop creative resolutions which acknowledge the compatibility of those of us who use historic cabins..privately owned or not..and the potential, many other recreational uses of the valley.

cc: Mike Tollefsen, Superintendent, Sequoia/ Kings Canyon Park
Stanley Albright, Field Director, Pacific West Region, NPS
The Honorable George Radanovich, U.S. House of Representatives
The Honorable Calvin Dooley, U.S. House of Representatives
The Honorable Jim Bunn, U.S. House of Representatives
The Honorable Mark O. Hatfield, U.S. Senate
The Honorable Dianne Feinstein, U.S. Senate
Gregory Pensabene, Bogle and Gates
Members, Mineral King District Association